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OFFICE OF PETITIONS

In re Application of :
Rafael REIF et al. :
Application No. 10/655,854 : **DECISION ON PETITION**
Filed: September 05, 2003 :
Attorney Docket No MIT-136AUS :

This is a decision on

- (1) the petition which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application, and
- (2) the petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application.

These two petitions were filed concurrently on July 02, 2008.

The petition under 37 C.F.R. 1.181 is **GRANTED** and the petition to revive under 37 C.F.R. 1.137(b) is **DISMISSED** as moot.

Withdraw the Holding of Abandonment

This application was held abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Non-Final Office action of December 08, 2000.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a Auto Reply Facsimile Transmission which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 11, 2008 of a reply including, inter alia, 24 pages including a cover page, an image of which is thereon, and a copy of the facsimile machine transmission verification report indicating the successful transmission to Facsimile number 571-273-8300 of 24 pages on April 11, 2008 including a transmittal/cover sheet, an image of which is thereon and identical to that on the Auto Reply Facsimile Transmission. A copy of the previously submitted 24 page reply accompanies the petition.

The reply acknowledged as having been received in the USPTO on April 11, 2008 is not of record in the application file and has not to date been located. However, 37 CFR 1.6(d) states that "Except in the cases enumerated below, correspondence, including authorizations to charge a deposit account, may be transmitted by facsimile. The receipt date accorded to the

correspondence will be the date on which the complete transmission is received in the United States Patent and Trademark Office, unless that date is a Saturday, Sunday, or Federal holiday within the District of Columbia." Accordingly, it is concluded that the reply/amendment was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 11, 2008.


Revive, Unintentional Delay

As discussed supra the petition under 37 CFR 1.181 is granted. Accordingly, the petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application is deemed moot.

Therefore, the \$1540 petition fee is unnecessary and will be credited to petitioner's deposit account 50-0845.

This application is being referred to Technology Center AU 2826 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision should be directed to K. Reichle at (571) 272-6051.


David Bucci
Petitions Examiner
Office of Petitions